



ZAIGER'S INC. GENETICS

1219 GRIMES AVE.

MODESTO, CA 95358

TEL. (209) 522-5813 FAX (209) 549-0119

FLOYD BETTY GARY LEITH GRANT

IPW

July 18, 2005

June Hwu
Patent Examiner
Direct to Group Art Unit 1661
Patent & Trademark Office
Washington, D.C. 20231

Re: United States Plant Patent Application
Peach Tree "Vista Snow"
Application Number 10/820,946, Filing Date 04/09/2004, Grp Art Unit 1661

Dear June Hwu,

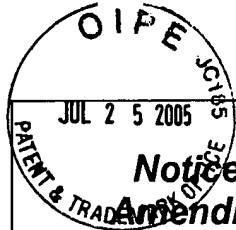
Please substitute the following amendments to the specification.

We will under take to do our utmost to revise our format to comply with the necessary requirements you have indicated that are necessary for this plant patent and our future stone fruit patents.

We regret any inconvenience these errors have caused you.

Sincerely,

Leith Marie Gardner
Leith Marie Gardner



**Notice of Non-Compliant
Amendment (37 CFR 1.121)**

Application No.	Applicant(s)	
10/820,946	ZAIGER ET AL.	
Examiner	Art Unit	
June Hwu	1661	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on 29 October 2004 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☒ 1. Amendments to the specification:
- ☒ A. Amended paragraph(s) do not include markings.
 - ☐ B. New paragraph(s) should not be underlined.
 - ☐ C. Other _____.
- ☐ 2. Abstract:
- ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
 - ☐ B. Other _____.
- ☐ 3. Amendments to the drawings:
- ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
 - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
 - ☐ C. Other _____.
- ☐ 4. Amendments to the claims:
- ☐ A. A complete listing of all of the claims is not present.
 - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
 - ☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
 - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
 - ☐ E. Other: _____.

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714 and the USPTO website at <http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/officeflyer.pdf>.

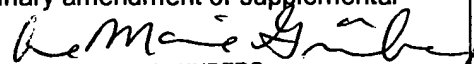
TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted within the time period set forth in the final Office action.
2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action.

Extensions of time are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

Failure to timely respond to this notice will result in:

- Abandonment** of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or
- Non-entry** of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.


ANNE MARIE GRUNBERG
PRIMARY EXAMINER



1 SUMMARY OF THE NEW VARIETY: The new variety of peach tree is
2 of large size, vigorous, upright growth and a regular and
3 productive bearer of medium size, firm, white flesh,
4 clingstone fruit with a mild, sweet, sub-acid flavor and
5 excellent eating quality. The fruit is further characterized
6 by ripening in the early maturity season, being relatively
7 uniform in ripening, having cream skin color, nearly
8 overspread with an attractive orange-red blush and nearly
9 globose in shape. The tree having a low winter chilling
10 requirement of approximately 250 hours at or below 45°F and,
11 in comparison to the low chilling variety 'Desertgold' Peach
12 (non-patented), the fruit of the new variety is white flesh
13 instead of yellow, has firmer flesh with greater storage and
14 shipping quality, and is approximately 27 days earlier in
15 maturity. In comparison to the yellow flesh peach 'May
16 Crest' Peach (U.S. Plant Patent #4064), the new variety
17 requires approximately 400 hours less winter chilling, has
18 white flesh and is approximately 17 days earlier in maturity.
19 In comparison to its maternal parent (174LE309) the fruit of
20 the new variety has white flesh instead of yellow and matures
21 approximately 5 days earlier. In comparison to the paternal
22 parent (2LD470), the tree of the new variety requires
23 approximately 150 hours less winter chilling and produces
24 fruit that are larger in size with improved flavor.
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Sepals:

Number 5, alternately arranged to petals.
Shape - ovate, apex rounded.
Average length 5.6 mm.
Average width 4.7 mm.
Upper surface glabrous, lower surface pubescent.
Color - upper surface varies from 5GY 6/6 to 5GY 5/8, lower surface varies from 7.5RP 4/4 to 7.5RP 3/6.
Margin - entire.



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KERNAL

Form: Ovate.

Taste: Bitter.

Viability: Non-viable, incomplete embryo.

Size: Medium.
Average length 15.3 mm.
Average width 9.9 mm.
Average depth 5.0 mm.

Skin Color: ~~5Y 8.5~~ 5Y 8.5/2, when dry.



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CLAIM: A new and distinct variety of peach tree,
substantially as illustrated and described, characterized by
its low winter chilling requirement, its large size, vigorous
upright growth and being a regular and productive bearer of
medium size, early maturing, white flesh, clingstone fruit
with a mild, sweet, sub-acid flavor and excellent eating
quality[. The] ; the fruit is further characterized by
having an attractive orange-red skin color and, in comparison
to the low chilling variety 'Desertgold' Peach (non-
patented), the fruit has a more attractive red skin color,
firmer flesh and is approximately 27 days earlier in
maturity.